

**DEPARTMENT OF HEALTH AND HUMAN SERVICES
SUBSTANCE ABUSE AND MENTAL HEALTH SERVICES ADMINISTRATION
DRUG TESTING ADVISORY BOARD**

June 1 - 2, 2005

The Drug Testing Advisory Board was convened for its meeting at 8:30 a.m. on June 1, 2005, in the SAMHSA Building (Sugarloaf Room), 1 Choke Cherry Road, Rockville, Maryland.

In accordance with the provisions of Public Law 92-463, the meeting was open to the public on June 1 from 8:30 a.m. to 9:30 a.m. The meeting was closed to the public on June 1 from 9:30 a.m. until adjournment on June 2 at 11:30 a.m. to develop the analytical and administrative policies for the final revisions to the Mandatory Guidelines for Federal Workplace Drug Testing Programs.

Board members present:

Robert Stephenson II, Chairman
Dr. Alberto Gutierrez
Patricia Pizzo
Dr. David Kuntz
Dr. Mahmoud ElSohly
Dr. Matthew Slawson
Dr. Sue Brown
Dr. Frederick Fochtman
Dr. William Ferguson Reid

Executive Secretary present:

Dr. Donna Bush, Division of Workplace Programs (DWP), CSAP

Others present for all or a portion of the meeting were:

Dr. Walter Vogl, DWP, CSAP
Charles LoDico, DWP, CSAP
Ron Flegel, DWP, CSAP
Dr. John Mitchell, RTI International
Dr. Mike Baylor, RTI International
Dr. Craig Sutheimer, RTI International
Susan Crumpton, RTI International
George Ellis, Department of Transportation (DOT)
Dr. Yale Caplan, DOT Consultant
Tim McCune, Nuclear Regulatory Commission (NRC)

TOPICS DISCUSSED IN OPEN SESSION

Note: The transcript of the open session is available on the Internet at:

<http://workplace.samhsa.gov>

Opening Remarks

Mr. Stephenson convened the open session of the Board meeting. He stated that the open session is going to be brief because the Board needs more time to develop the final Mandatory Guidelines that will include testing hair, sweat, and oral fluid specimens as well as point of collection testing in the Federal Workplace Drug Testing Program.

HHS Update

Dr. Bush mentioned that the DWP workplace website has been redesigned to make navigation easier and many files have been updated.

Mr. Stephenson mentioned his participation as a panel member on a recent hearing held by the U.S. House of Representatives Committee on Energy and Commerce regarding the subversion of drug testing programs. The transcript of the hearing will be available on the following website: <http://energycommerce.house.gov/108/Hearings/05172005hearing1525/hearing.htm>.

DOT Update

Mr. Ellis (DOT) stated that DOT is making good progress on finishing the Federal Register notice of proposed rulemaking regarding urine specimen validity testing. The notice should be published this summer or early fall.

Mr. Ellis stated that DOT's workplace website (<http://www.dot.gov/ost/dapc/>) has a new feature that allows anyone to sign-up and automatically receive an e-mail notification of policy changes, program updates, and interpretations.

Mr. Ellis stated that Mexico has reopened its dialogue with DOT and is interested in getting a Mexican laboratory certified to conduct drug testing on federally-regulated specimens.

NRC Update

Mr. McCune (NRC) stated that the NRC is in the process of revising 10 CFR Part 26. The draft revised rule has been delivered to the Commission and a marked-up draft version is available for review on the NRC website (www.nrc.gov). There will be a formal public comment period after the Commission releases the regulation and it is published in the Federal Register.

Mr. McCune stated that the NRC will also publish fitness for duty performance indicators

submitted by its licensees. The data will cover the past few fiscal years.

Public Comments

Dr. Sam Niedbala made comments supporting the use of oral fluid testing as part of a workplace drug testing program, and expressed concerns with the proposal to collect a specimen by requiring the donor to expectorate rather than to use oral fluid collection devices.

Dr. Ed Cone stated that recent studies indicate that the presence of marijuana in oral fluid from passive exposure poses no greater risk and perhaps less risk in oral fluid tests than in urine tests.

Dr. Kardos described the inherent problems associated with handling oral fluid that is collected in a tube or cup and encouraged HHS to use only oral fluid collection devices for its workplace drug testing program.

Dr. Fritch described the difficulties associated with collecting a known amount of oral fluid using a tube or cup.

Dr. Kadehjian described a summary he conducted of the legal issues associated with oral fluid testing and concluded that oral fluid testing, when properly performed, should have no difficulty fulfilling the legal standards for admissibility of evidence.

Mr. Barnard described the full support his company has received from its unions. Union members prefer providing oral fluid specimens rather than urine specimens.

The open session ended at 9:30 a.m.

TOPICS DISCUSSED IN CLOSED SESSION

The Board approved the Minutes for the March 9 - 10 meeting.

The Board discussed the public comments submitted regarding the proposed revisions to the Mandatory Guidelines for Federal Workplace Drug Testing Program (69 FR 19673) and began developing recommendations for the Department to use in preparing the final revisions to the Guidelines.

Adjournment

The meeting adjourned at 11:30 a.m. on June 2.

I hereby certify that, to the best of my knowledge, the foregoing minutes are accurate and complete.

/signed/

Donna M. Bush, Ph.D., D-ABFT
Executive Secretary, DTAB

/signed/

Robert L. Stephenson II, M.P.H.
Chairman, DTAB

These minutes will be formally considered by the Board at its next meeting, and any corrections or notations will be incorporated in the minutes of that meeting.